

SUZANNE IVIE, )  
 )  
 Plaintiff, ) 3:19-cv-01657-JR  
 )  
 vs. ) June 22, 2021  
 )  
 ASTRAZENECA PHARMACEUTICALS, LP, ) Portland, Oregon  
 )  
 Defendant. )

BEFORE THE HONORABLE JOLIE A. RUSSO  
UNITED STATES DISTRICT COURT MAGISTRATE

## APPEARANCES

FOR THE PLAINTIFF:

Anita Mazumdar Chambers  
Robert Scott Oswald  
The Employment Law Group  
1717 K Street, NW, Suite 1110  
Washington, DC 20006

FOR THE DEFENDANT:

Melinda S. Riechert  
Morgan, Lewis & Bockius, LLP  
1400 Page Mill Road  
Palo Alto, CA 94304

Ryan P. McCarthy  
Morgan, Lewis & Bockius, LLP  
1701 Market Street  
Philadelphia, PA 19103

Anne M. Talcott  
Schwabe, Williamson & Wyatt  
1211 SW Fifth Avenue, Suite 1900  
Portland, OR 97204

COURT REPORTER:

Dennis W. Apodaca, RDR, FCRR, CRR  
United States District Courthouse  
1000 SW Third Avenue, Room 301  
Portland, OR 97204  
(503) 326-8182

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1 (June 22, 2021)

2 P R O C E E D I N G S

3 (Open court; jury not present; 10:55 a.m.)

4 THE COURT: As you know, they recessed last night  
5 right around five o'clock. They were back here bright early at  
6 nine o'clock working hard.

7 There is a note from the presiding juror: "Is it  
8 possible to receive a physical or digital copy of both  
9 counsel's reference materials; specifically timelines?"

10 What that mean by that are all of those demonstrative  
11 exhibits -- those great big boards that you both had. My  
12 inclination is to tell them those are not exhibits that were  
13 admitted into evidence. The short answer is no.

14 MR. OSWALD: I am fine with that.

15 MS. RIECHERT: No objection to them not getting the  
16 timelines, because they are not in evidence. Therefore, they  
17 are demonstratives. Therefore, they are not entitled to see  
18 them.

19 MR. OSWALD: Well, I'm just trying to be responsive  
20 to the jurors. I think they have seen all of these, but I also  
21 recognize, quite frankly, that if Melinda says no, then the  
22 answer is no.

23 THE COURT: You have to agree.

24 MR. OSWALD: I get that. She is going to veto it.

25 THE COURT: I am just going to just tell them, no,

## Verdict

1 these are demonstrative exhibits not in evidence, and that will  
2 be the answer.

3 Thank you.

4 MS. RIECHERT: Thank you.

5 (Recess pending verdict.)

6 (Open court; jury not present:)

7 THE COURT: I understand we have a verdict.  
8 Everybody is here.

9 Mr. Magnuson, will you get the jury, please.

10 MS. RIECHERT: Your Honor, I did raise that issue  
11 whether we would be allowed to talk to the jurors after the  
12 verdict, if they are willing to do so.

13 THE COURT: I'm happy to go back and ask them if they  
14 are interested.

15 MS. RIECHERT: Thank you very much.

16 (Open court; jury present:)

17 THE COURT: You may be seated.

18 Good afternoon. Again, thank you.

19 Has the jury reached a unanimous verdict?

20 PRESIDING JUROR: We have.

21 THE COURT: And you are the presiding juror, sir?

22 PRESIDING JUROR: I am.

23 THE COURT: Will you please hand the verdict to  
24 Mr. Magnuson.

25 The verdict will now be published, and all that means

## Verdict

1 is that I'm now going to read the verdict aloud in open court.  
2 I ask you jurors to please pay close attention as I read the  
3 verdict, because following the reading, I will ask each of you  
4 individually whether the verdict, as read, constitutes your  
5 individual verdict in all respects.

6 "Verdict form. We, the jury, being first duly  
7 impaneled and sworn, do find our verdicts as follows:

8 "Question No. 1, claim for False Claims Act  
9 retaliation: Did plaintiff prove by a preponderance of the  
10 evidence that defendant terminated plaintiff because she  
11 complained about her manager's alleged encouragement of  
12 off-label drug marketing; that is, that defendant would not  
13 have terminated plaintiff but for that complaint?"

14 The answer is, "No."

15 "Question 2. Claim for Oregon Whistleblower  
16 Protection Law retaliation. Did plaintiff prove by a  
17 preponderance of the evidence that defendant terminated  
18 plaintiff because she made a good-faith report of conduct by  
19 defendant that she believed to be a violation of state or  
20 federal law, rule, or regulation? That is, that plaintiff's  
21 report made a difference in defendant's decision to terminate  
22 plaintiff?"

23 The answer to that question is "yes."

24 "Go to question 3.

25 "Question 3. Claim for Age Discrimination and

## Verdict

1 Employment Act discrimination.

2 "Did plaintiff prove by a preponderance of the  
3 evidence that defendant terminated the plaintiff because of her  
4 age? That is, that defendant would not have terminated the  
5 plaintiff but for her age?"

6 The answer to that question is "no."

7 "Question 4. Claim for Age Discrimination in  
8 Employment Act retaliation. Did plaintiff prove by a  
9 preponderance of the evidence that the defendant terminated the  
10 plaintiff because she complained to defendant that she had been  
11 discriminated against based on her age? That is, that  
12 defendant would not have terminated the plaintiff but for that  
13 complaint?"

14 The answer to question 4 is "no."

15 "Question 5. Claim for Family and Medical Leave Act,  
16 Oregon Family Leave Act, retaliation/discrimination. Did  
17 plaintiff prove by a preponderance of the evidence that  
18 plaintiff's medical leave was a negative factor in the  
19 defendant's decision to terminate her employment?"

20 The answer to question 5 is "no."

21 "Question 6. Claim for state law employment  
22 discrimination. Did plaintiff prove that the plaintiff's age  
23 was a substantial factor in the defendant's decision to  
24 terminate the plaintiff? That is, that defendant would not  
25 have terminated the plaintiff but for her age."

## Verdict

1           The answer to question six is "no."

2           "Question 7. Economic damages, backpay. What lost  
3 wages and benefits, if any, did plaintiff prove by a  
4 preponderance of the evidence that she sustained as a result of  
5 defendant's unlawful actions from the date of plaintiff's  
6 termination through the first day of this trial?"

7           And the answer to Question 7 is "\$510,423."

8           "Question 8. Economic damages, front pay. What lost  
9 wages and benefits, if any, did the plaintiff prove by a  
10 preponderance of the evidence that she would have earned had  
11 her employment not been terminated as a result of defendant's  
12 unlawful actions for the period from the date of your verdict  
13 until the date when plaintiff would have voluntarily  
14 resigned/retired or obtained other employment?"

15           The answer to Question 8 is a zero is filled in.

16           "Question 9. Non-economic damages, emotional  
17 distress, suffering, and reputational harm. What damages for  
18 emotional distress, suffering, or reputational harm, if any,  
19 did plaintiff prove by a preponderance of the evidence that she  
20 sustained as a result of defendant's unlawful actions?"

21           The amount filled is "\$1,872,000."

22           "Question 10. Mitigation of damages. Did defendant  
23 prove by a preponderance of the evidence that plaintiff failed  
24 to use reasonable efforts to mitigate her damages?"

25           The answer is "no."



## Verdict

1           "Question 11. By what amount, if any, should  
2 plaintiff's damages be reduced because she failed to mitigate  
3 her damages?"

4           There is a zero written in.

5           And finally, "Question 12. Age Discrimination in  
6 Employment Act, willfulness. Did the plaintiff prove by a  
7 preponderance of the evidence that of the defendant knew or  
8 showed reckless disregard for whether the plaintiff's  
9 termination was prohibited by the Age Discrimination and  
10 Employment Act?"

11           The answer to question 12 is "no."

12           Dated today, June 22nd, 2021, signed by the presiding  
13 juror.

14           As I indicated, I'm now going to poll you  
15 individually, and I'm going to ask you the same question.

16           Juror No. 1, is this your verdict?

17           JUROR: Yes.

18           THE COURT: Juror No. 2, is this your verdict?

19           JUROR: Yes.

20           THE COURT: Juror No. 3, is this your verdict?

21           JUROR: Yes.

22           THE COURT: Juror No. 4, is this your verdict?

23           JUROR: Yes.

24           THE COURT: Juror No. 5, is this your verdict?

25           JUROR: Yes.

## Verdict

1 THE COURT: Juror No. 6, is this your verdict?

2 JUROR: Yes.

3 THE COURT: And juror No. 7, is this your verdict?

4 JUROR: Yes.

5 THE COURT: Thank you. Would counsel like to look at  
6 the verdict?

7 THE CLERK: I can make copies for them.

8 THE COURT: I am going to instruct the clerk to file  
9 and record the verdict.

10 Jury, thank you very much, on behalf of the Court, on  
11 behalf of the parties for your service. I'm going to ask you  
12 if you would please return to the jury room for just a few  
13 minutes. There is just a little bit of business that we will  
14 need to conduct, and then I would like to come back to the jury  
15 room to chat with you for a few minutes.

16 If I could ask you to please return to the jury room  
17 and hold for a few minutes.

18 Thank you.

19 (Open court; jury not present:)

20 THE COURT: Please be seated.

21 Anything in addition this afternoon? I understand  
22 defense counsel would like to talk with the jury. I indicated  
23 that I would go back and chat with them, and then I'll ask the  
24 jurors if they're interested in that.

25 MS. RIECHERT: Then you'll let us know?

1 THE COURT: Absolutely.

2 MS. RIECHERT: I would like to renew our motion for  
3 JNOV -- or state a motion for JNOV on the second question with  
4 respect to whether or not the Oregon law -- Oregon's  
5 whistleblower law applies to someone who is not an Oregon  
6 resident when no wrongful conduct took place at all in Oregon;  
7 and therefore, Oregon law does not apply -- should not apply.  
8 I would like to renew my motion on that ground.

9 THE COURT: Thank you.

10 Go ahead, Mr. Oswald.

11 MR. OSWALD: Your Honor, we will renew our motion as  
12 well on the other claims under the federal False Claims Act and  
13 under the Age Discrimination and Employment Act and the Family  
14 Medical Leave Act; specifically the fact that the defendant did  
15 not meet their prima facie burden to demonstrate a legitimate  
16 nondiscriminatory reason for the firing, in light of the fact  
17 that the June 6th, 2019, employment relations case against  
18 Suzanne Ivie specifically stated the reason they are firing her  
19 is because of the fact that she is not accepting the results of  
20 the investigations and continuing to complain similarly, which  
21 means, consistent with the remainder of the memo, what she is  
22 complaining about is the federal False Claim Act and the Family  
23 Medical Leave Act and Age Discrimination and Employment Act.  
24 That itself is inextricably intertwined with the other  
25 reasons -- the other reasons and the rationale for the firing.

1 That means the defendant cannot meet their burden under  
2 McDonald Douglas in showing a legitimate business reason for  
3 their termination. Therefore, judgment on liability on those  
4 counts should have been entered on behalf of Ms. Ivie.

5 THE COURT: Thank you.

6 Those motions are denied. Certainly the record has  
7 been made.

8 Anything in addition before I go talk with the jury?

9 MR. OSWALD: Nothing.

10 THE COURT: I will ask them right off the bat if they  
11 want to talk.

12 Thank you. We need to counsel to stay for just a  
13 moment to help with the exhibits.

14 (Court adjourned.)  
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--oOo--

I certify, by signing below, that the foregoing is a correct transcript of the record of proceedings in the above-entitled cause. A transcript without an original signature, conformed signature, or digitally signed signature is not certified.

/s/ Dennis W. Apodaca

DENNIS W. APODACA, RDR, RMR, FCRR, CRR  
Official Court Reporter

September 28, 2021

DATE

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